

Farm-Neighbor Conflicts in Maryland

Throughout Maryland, suburban life is spilling over into rural communities. City dwellers and suburbanites seeking serenity, open space, and fresh air are moving to the country. Often they locate right by a farm or within a farming community. For many, farming is only vaguely familiar.

But suddenly, these new neighbors are face to face with the stark realities of farming:

- Manure spreading
- Pesticide spraying
- Equipment noise
- Odors & dust
- Housing for migrant labor
- Slow-moving tractors on roads.

Farmers are concerned about...

- Making a living
- Keeping good land in production
- Planting and harvesting on time
- Growing high quality products
- Providing nutrients for crop production
- Controlling plant diseases and pests
- Environmental regulations
- Adequate supply of labor

The neighbor asks:

"Can he get away with that?"

"I'll take him to court."

"I'll complain to the town supervisor."

"I'll start a protest movement."

"I'll just make his life miserable."

The farmer asks:

"Can he get away with that?"

"This is my land and no one can tell me what to do."

"I'm just trying to make a living."

"I was here first."

"I'll just make his life miserable."

And then farm-neighbor conflicts erupt. Some even grow to the point where the entire community is involved. Polarization may crowd out communication.

Of course, not all farm-neighbor conflicts involve newcomers. Sometimes concerned neighbors are farm families themselves. Sometimes the changing nature and scale of agriculture in a given place leads to conflict.

And when conflict erupts, many of us turn to the law. Laws and regulations are meant to impose order, to balance competing rights and claims. Laws and regulations are supposed to protect all parties.

Farmers, for example, have certain legal rights to farm and an interest in preserving their livelihood. Neighbors, meanwhile, have certain legal rights to clean air and water and an interest in preserving their peace and quiet.

But laws and regulations are not always sufficient. Because rights often clash. And because rights don't wash away anger or worries. And angry, worried neighbors find ways to express their displeasure.

Offended and exasperated, some farmers feel attacked.

So, when a conflict threatens to spin out of control, what can you do?

Try a different approach to resolving conflict. Empower yourself and your community. Reach out to people with collaborative problem-solving skills. People like mediators or facilitators who can help parties in conflict move beyond accusations, anger, and frustration to instead focus on issues, mutual interests, and problem-solving strategies.

Collaborative community problem solving helps farmers and neighbors resolve conflicts in a manner that builds trust and enhances community understanding.

Conflicts may involve personal or business interests or concerns or perceptions, or the interpretation of laws and regulations. Each party believes its interests and concerns are paramount. Each party believes its facts are accurate, its take on the situation true and clear. Farmers and neighbors often do not talk to each other about the problem.

Or ... One party is not satisfied with the response of the other.

Or ... One party doesn't understand the other's point of view or the other's fears.

And sometimes both sides think about escalating, which in turn raises the specter of reprisal.

But farmers and neighbors have more constructive options besides ignoring each other, shouting, or threatening. They can build understanding and work on reconciling their differences in a way that leads to win-win outcomes. Because doing so...

- saves time
- saves money
- saves aggravation
- avoids hurt feelings
- builds trust
- builds relationships
- builds communities
- generates outcomes more likely to meet everyone's needs

Many Maryland counties have a Right to Farm Ordinance which includes a board of local citizens who can help to resolve conflicts related to agricultural issues. (For links to specific county information, see http://www.mda.state.md.us/md_products/countyag.php.) In addition, a full range of mediation, facilitation and problem-solving services are available state-wide through FARM SENSE- the official USDA-certified agricultural mediation program for Maryland. Through this program, the Maryland Department of Agriculture (MDA) provides confidential assistance with concerns related to agriculture.

Agricultural mediation is a voluntary, confidential process in which a neutral third party (the mediator or facilitator) assists farmers, their neighbors, and others to resolve disputes in a confidential and non-adversarial setting outside the traditional legal and regulatory processes. Usually this is quicker, less costly, and more satisfactory to the parties than other ways of resolving disputes. For additional information, call 410-841-5770 or go to www.farmsense.org.

Right to Farm Laws in Maryland: A Brief Overview

By Michael J. Chomel, Assistant County Attorney, Frederick County, Maryland
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Maryland State Law related to nuisance suits against agricultural operations is found in the Maryland Code Annotated, Courts and Judicial Proceedings Article, Section 5-403. (See http://mlis.state.md.us/cgi-win/web_statutes.exe?qcj&5-403.)

The state law applies to an “agricultural operation,” which is defined as “an operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised or cultivated by the farmer.

If an agricultural operation has been:

- underway for a period of 1 year or more and
- is in compliance with applicable federal, State, and local health, environmental, zoning and permit requirements, and
- is not conducted in a negligent manner,

Then:

- the operation, including any noise, dust, or insects from the operation, may not be deemed to be a private or public nuisance, and
- a private action may not be sustained on the grounds that the operation interferes with the use or enjoyment of other property, whether public or private.

State law does not:

- prohibit a federal, State, or local government from enforcing health, environmental, zoning or any other applicable law,
- relieve any agricultural operation from the responsibility of complying with the terms of any applicable federal, State, and local permit required for the operation,
- relieve any agricultural operator from the responsibility to comply with any federal, State, or local health, environmental, and zoning requirement,
- relieve any agricultural operation from liability for conducting an agricultural operation in a negligent manner, or
- apply to any agricultural operation that is operating without a fully and demonstrably implemented nutrient management plan for nitrogen and phosphorus if otherwise required by law.

Maryland County ordinances, often called “Right to Farm” regulations, have been established in many counties. (See http://www.mda.state.md.us/on_web/ag_links/countyag.php.) In general, county laws:

- Recognize that agriculture is important to the County’s economy and to the quality of life,
- Recognize that when nonagricultural (i.e., residential) land uses extend into agricultural areas, agricultural operations can become the subject of lawsuits, and

- Seek to promote a clear understanding between agricultural operations and nonagricultural neighbors concerning the normal inconveniences of agricultural operations which follow generally accepted agricultural practices and do not endanger public safety.

The regulations and their implementation differ from county to county. The following example outlines the implementation in Frederick County.

Frederick County Notification Procedures:

- A disclosure notice, the 'Right to Farm Notice' is required when real estate is transferred, so that new residents are aware of agricultural operations in the area.
- A copy of the 'Right to Farm Notice' is included with annual real property tax bill.
- The Frederick County Agricultural Reconciliation Committee (FCARC) arbitrates and mediates disputes involving agricultural operations, and issues opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices

Frederick County Complaint Procedures:

If the concern involves a public health issue, the complaint is made to the County Health Department. The Health Department investigates, and the Health Officer determines whether a nuisance exists.

Any other concern regarding an interference with the use or enjoyment of property from agricultural operations on agricultural land is submitted to the FCARC. The committee holds an informal hearing; orders of the FCARC are binding on the parties as a matter of law. Enforcement of the order is suspended, if within 30 days of the order a party appeals to the Circuit Court. Appeals to the court are tried *de novo*. If the FCARC or court finds that an action against an agricultural operation was brought or maintained in bad faith or without substantial justification, the FCARC or court may require the person who brought the action to pay the costs and expenses (including reasonable attorney fees) of the agricultural operator.

Frederick County Right to Farm Law does not modify or abridge local, state or federal laws, including laws related to health, safety, trespass onto agricultural property, zoning, license requirement, environmental standards

What Right To Farm Laws Do Not Address:

Farmers and their non-farm neighbors should understand that current laws do not address many potential sources of concern. Issues which generally are not covered include:

- Trespass onto privately-owned property, such as when all terrain vehicles (ATVs) are driven onto a neighbor's property, or yard waste is dumped on another's property.
- Activities and noise which disturb farm animals or neighbors, such as excessively loud music

Local issues currently being addressed include zoning setbacks as well as noise and odor ordinances. Potential solutions to these concerns include education of farmers, neighbors, and government officials as well as new technology, such as the development of odor abatement techniques or the use of vegetative buffers (i.e., shelter belts) instead of setbacks.